

BY-LAWS OF THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
NATIONAL POLLUTION PREVENTION AND TOXICS
ADVISORY COMMITTEE
(NPPTAC)

November 4, 2003

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BY-LAWS OF THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
NATIONAL POLLUTION PREVENTION AND TOXICS ADVISORY COMMITTEE

ARTICLE I - NAME

The name of the organization shall be the National Pollution Prevention and Toxics Advisory Committee.

ARTICLE II - AUTHORITY

The National Pollution Prevention and Toxics Advisory Committee (hereinafter referred to as NPPTAC or Committee) is established by Agency authority, within the U.S. Environmental Protection Agency (EPA), Office of Prevention, Pesticides, and Toxic Substances (OPPTS), Office of Pollution Prevention and Toxics (OPPT), under a charter approved by the Deputy Administrator, reviewed by the U.S. General Services Administration, and filed with the appropriate Congressional committees.

The NPPTAC advises the Administrator of EPA consistent with its current approved charter and the requirements of the Federal Advisory Committee Act (5 U.S.C. App.) (FACA).

ARTICLE III - MISSION AND SCOPE

The NPPTAC is the national advisory body to provide advice, information and recommendations on the overall policy and operation of programs managed by OPPT, in performing its duties and responsibilities under the Toxics Substances Control Act (TSCA) and the Pollution Prevention Act (PPA). NPPTAC provides a forum for public discussion and the development of independent advice to the EPA Administrator by taking advantage of the experience, strengths and responsibilities of a broad range of Agency constituents and stakeholders. In addition, NPPTAC will have technical advisors who will be Federal officials and/or national experts.

The NPPTAC's main focus will be on risk assessment and management; risk communication; pollution prevention in OPPT's chemical management and prevention programs; OPPT's coordination with other Federal, State and Tribal government agencies, as well as with non-governmental organizations; and other issues that OPPT identifies as critical to its programs.

ARTICLE IV - MEMBERSHIP AND ADVISORS

Section A. Representation

NPPTAC members will consist of senior-level decision-makers from a broad range of interests, and may include but are not limited to, State government agencies; federally recognized Tribes; public health professionals; chemical manufacturers; non-governmental organizations, such as environmental groups, environmental justice, children's advocates, animal welfare organizations; and other non-governmental entities as the Deputy Administrator deems appropriate.

Section B. Membership

1. NPPTAC Members

- a. NPPTAC members are uncompensated volunteers who each have an equal voice in the decision-making of all Committee actions in which they participate.
- b. The NPPTAC members represent their interest group.
- c. Each NPPTAC member also may serve as a member of subcommittees or working groups formed under NPPTAC auspices.
- d. A member who is not able to attend a Committee meeting may send an alternate representative of their interest group to participate in ongoing Committee discussions. However, alternates will not take part in the decision-making of the Committee as described in Article VII, Section A.

2. NPPTAC Subcommittee and Working Groups Members

- a. NPPTAC subcommittee and working group members are uncompensated volunteers named to serve on a specific subcommittee or working group formed under NPPTAC auspices. Each subcommittee or working group member will be a full participant in subcommittee and working group deliberations.
- b. A NPPTAC subcommittee or working group member who is not able to attend a meeting may send an alternate representative of their interest group to participate in ongoing NPPTAC subcommittee or working group discussions. However, alternates will not take part in the decision-making of the NPPTAC subcommittee, as described in Article VII, Section A.

Section C. Advisors to the NPPTAC

1. Federal Technical Advisors

- a. Federal technical advisors are not to be considered members of the NPPTAC, subcommittees or working groups.
- b. The NPPTAC's Federal technical advisors will be representatives of other Federal agencies who will provide information and advice about their agency's policy and positions regarding the issues under discussion by the NPPTAC.
- c. The Federal technical advisors will participate in the Committee's discussions. The Federal technical advisors will not take part in the decision-making of the Committee as described in Article VII, Section A.
- d. Each of the NPPTAC's Federal technical advisors may serve as a Federal technical advisor to any subcommittee or working group formed under NPPTAC auspices.
- e. Any Federal technical advisor who is not able to attend a Committee meeting may send an alternate Federal technical advisor to represent his or her agency during Committee discussions.

2. Experts and Consultants

In consultation with the appropriate DFO, experts and consultants may be involved by the Chair(s) of either the NPPTAC, or a subcommittee or working group, to provide specialized information or assistance to the inviting body. Such individuals, however, are not members of either the Committee, subcommittee or working group.

Section D. Appointment Process and Terms

Committee members are appointed by the EPA Deputy Administrator. Committee members serve at the pleasure of the EPA Deputy Administrator, and are appointed to two-year terms. A Committee member may be reappointed to consecutive two-year terms as deemed appropriate by the EPA Deputy Administrator. Generally, terms will not exceed six (6) years.

NPPTAC subcommittee members are appointed by the EPA Deputy Administrator. Subcommittee members serve at the pleasure of the EPA Deputy Administrator, and will be appointed to a term of service. If the subcommittee member's assigned subcommittee should complete its work before the end of his/her term, the subcommittee member's appointment will automatically expire at that time. Generally, terms should not exceed six (6) years.

NPPTAC working group members will be approved by the Committee's DFO.

Section E. Termination of Membership

1. The EPA Deputy Administrator may remove a Committee member or subcommittee member if the member misses two consecutive meetings of the Committee or relevant subcommittee.
2. A Committee member or subcommittee member whose professional affiliation changes during their tenure may be removed to maintain appropriate balance among sectors of membership.
3. The Deputy Administrator may remove a Committee member or subcommittee member when:
 - a. Personal/Professional circumstances would prove detrimental or disruptive to his or her continued participation in the Committee or subcommittee; or,
 - b. For other reasons the EPA Deputy Administrator deems appropriate.

ARTICLE V - COMMITTEE ORGANIZATION

Section A. Chair(s)

The Committee shall have a Chair(s) appointed by the EPA Deputy Administrator. The Chair(s) shall serve a one-year term of office. The Chair(s) may be reappointed to a second term if the Deputy Administrator deems it appropriate. The Chair(s) is responsible for leading the NPPTAC meetings and for certifying the accuracy of Committee meeting minutes. In the event Co-chairs are appointed, one Co-chair may lead the NPPTAC meetings and certify the accuracy of the meeting minutes.

Section B. Chairs of NPPTAC Subcommittees

The Chairs of subcommittees formed under NPPTAC shall be appointed by the EPA Deputy Administrator. The subcommittee chair is responsible for leading subcommittee meetings and for certifying the accuracy of meeting minutes.

Section C. Designated Federal Officer

A salaried Federal employee of OPPT shall serve as Designated Federal Officer (DFO). Subcommittees and working groups formed under NPPTAC auspices shall also have a salaried Federal employee of the OPPT serve as DFO. A DFO will be present at all Committee, subcommittee meetings and is authorized to adjourn any such meeting whenever he or she determines it to be in the public interest to do so. Additionally, the NPPTAC's DFO and DFOs of subcommittees formed under the auspices of NPPTAC, are responsible for providing adequate staff support to perform the following functions:

1. Preparing the meeting agendas.
2. Securing appropriate meeting sites.
3. Notifying members, and the public, of the time and place for each meeting.
4. Securing the participation of Agency Officials, consultants, and any other speakers deemed appropriate by the membership.
5. Facilitating, or securing the services of facilitators, to ensure meetings are appropriately structured and productive.
6. Distributing materials to Committee and subcommittee members.
7. Maintaining records of all meetings.
8. Maintaining Committee, subcommittee and working group membership lists.
9. Preparing the minutes of all meetings.
10. Maintaining official NPPTAC records in one location and filing all papers and submissions prepared for, or by, the Committee and/or subcommittees, including those items generated by working groups under the auspices of NPPTAC.
11. Preparing and handling all reports, including quarterly and annual reports as required by the General Service Administration (GSA) and FACA.
12. Filing Committee-approved Final Committee Reports with the Library of Congress.

Section D. Committee Structure

1. The Committee generally will act through its subcommittee structure. In accordance with FACA requirements, subcommittees formed under NPPTAC auspices will not function independently or provide advice or recommendations directly to EPA.
2. The number, designation, mission, scope and membership of subcommittees at any time will be subject to approval by the EPA Deputy Administrator.
3. Working groups formed under NPPTAC auspices will operate under the guidance of the Committee, and will not function independently or provide advice or recommendations directly to EPA, rather, per the Committee's guidance, they will report to the Committee.

ARTICLE VI - MEETINGS

Section A. Compliance with FACA

The NPPTAC will operate in accordance with all applicable requirements of FACA. Such requirements include but are not limited to: publishing notices of meetings in the *Federal Register*, holding open meetings, and generating and distributing minutes of meetings. In addition, NPPTAC subcommittees will follow the FACA openness requirements.

1. Open Meetings

- a. Unless otherwise determined in advance and authorized by the EPA Administrator, meetings of the NPPTAC will be open to the public.
- b. All materials brought before, or presented to the Committee or subcommittees during an open meeting will be made available to the public for review at the time of the meeting. In the event it is not possible to provide a copy for the public at the time of the meeting, materials will be made available in the NPPTAC docket.
- c. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may, at the determination of the Chair(s) and DFO, offer oral comments at such meeting. The DFO and the Chair(s) may decide in advance not to have oral public comment during a meeting. In such cases the meeting announcement published in the *Federal Register* will note the exclusion of oral comments, but with an invitation to submit written comments as an alternative.

2. Closed Meetings

- a. Meetings of the Committee or subcommittees will be closed only in limited circumstances, in accordance with FACA, and only with the express written approval of the Office of General Counsel (OGC), the Committee Management Official (CMO), and the EPA Administrator.
- b. Requests for closed meetings must be approved by EPA's CMO and by OGC at least 30 days in advance of the session.
- c. Where the DFO has determined in advance that discussions during a Committee or subcommittee meeting will involve matters about which public disclosure would prove harmful to the interests of the Government, industry, or others, advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act, must be published in the *Federal Register* at least 15 days in advance of the session.

- d. The *Federal Register* Notice may announce the closing of all or part of a meeting. If during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chair(s) of the Committee or subcommittee will order such discussions to cease. The DFO will petition the Administrator for a closed session to be held at a later date.
- e. The DFO will prepare, annually, a Closed Meeting Report which will summarize the activities of all closed meetings held, and will submit such report to the CMO.

3. Minutes and Records

- a. Designated Federal Officers (DFOs) will be responsible for the preparation and distribution of their Committee or subcommittee's minutes, which will include a record of attendees (including the names of members of the public who made written or oral presentations); a complete and accurate description of the matters discussed; conclusions reached; and, copies of all documents received, issued or approved by the Committee.
- b. Draft meeting minutes will be reviewed by the Committee or subcommittee, and Committee or subcommittee Chairs will be responsible for final review and written approval of meeting minutes prior to distribution.
- c. DFOs will distribute copies of approved minutes to each member of the Committee or subcommittee, as appropriate.
- d. Minutes of open meetings and other Committee documents will be available to the public in the EPA docket, identified as OPPT-2002-0001.
- e. Minutes of closed meetings will be available to the public upon request, subject to the withholding of matters that are exempt from disclosure under the Government in Sunshine Act (GISA), 5 U.S.C. § 552 b.

Section B. Meeting Scheduling

- 1. The Committee expects to meet at least three times a year, but in any case will meet at least one time annually.
- 2. Subcommittees or working groups formed under NPPTAC auspices will meet as needed at the call of the subcommittee Chair and the DFO.
- 3. The Committee and subcommittees will not conduct any meetings in the absence of a DFO or his/her Federal designee.

Section C. Quorum

1. The presence of half plus one members of the Committee shall constitute a quorum for the transaction of business.
2. In the event a quorum is not present, Committee business not requiring a decision may be conducted. Decisions will be deferred until such time as a quorum is present.

ARTICLE VII - REPORTS AND RECOMMENDATIONS

Section A. Decision-Making

1. The Committee's goal is to reach consensus on issues and recommendations. Consensus recommendations are those that members can allow to go forward even with reservations. Opportunities will be provided to record reservations or dissenting views on particular issues.
2. If the NPPTAC can not reach consensus, the Committee will issue a report summarizing the issue and documenting both areas of agreement and disagreement, and will provide members with an opportunity to identify why differences continue to exist.
3. The subcommittees' and working groups' decision-making will be similar to the Committee.

Section B. NPPTAC Documents, Reports, or Other Materials

All documents, reports, or other materials presented to, or prepared by or for the Committee constitutes official government records and will be maintained according to EPA policies and procedures.

Section C. Subcommittee Reports and Recommendations

1. A subcommittee formed under NPPTAC auspices may bring a draft recommendation forward to the Committee for review and approval at any time.
2. Subcommittees will use the decision-making described in Article VII, Section A to forward recommendations to the full Committee for review and approval.
3. Approval of a recommendation should take place at a Committee meeting.

4. Subcommittees formed under NPPTAC auspices may issue their own draft reports, including draft recommendations, if approved by the body's members as described in Article VII, Section C. However, these reports shall be considered Drafts, and shall be appropriately labeled as Draft NPPTAC subcommittee reports by the Agency until they have undergone NPPTAC review and approval. Subcommittee reports must not be submitted to EPA as recommendations or advice, and will not be considered NPPTAC recommendations or advice, until the Committee's review and approval.

Section D. NPPTAC Reports and Recommendations

1. The Committee shall also accept for formal review a report or recommendation that has been approved by a subcommittee formed under the NPPTAC auspices, in accordance with Article VII, Section C.
2. Each report or recommendation of a subcommittee or working group will be distributed to all NPPTAC members for review a minimum of 15 calendar days in advance of a meeting.
3. The Committee Chair(s) will transmit an approved Committee report or recommendation to the EPA Administrator and Deputy Administrator through OPPT upon approval by the Committee. NPPTAC reports and recommendations will be made available to the public in accordance with Section 10(b) of FACA. All Committee approved Final Reports and/or recommendations will be filed with the Library of Congress.

Section E. NPPTAC Information Reports

All materials prepared by NPPTAC, its subcommittees, and working groups formed under NPPTAC auspices are available to the public in accordance with FACA section 10(b). Subcommittees or working groups formed under NPPTAC auspices may issue background documents, issue papers, and other materials specially prepared as NPPTAC information reports. The release of a NPPTAC information report does not imply that its contents have been approved or agreed to by either the Committee or a group formed under NPPTAC auspices, nor that its contents are recommendations or advice to EPA; the information report shall clearly reflect this. Information reports are also available to the public.

ARTICLE VIII - AMENDMENTS TO BY-LAWS

To ratify, amend, or repeal (in whole or in part) NPPTAC's By-Laws, a minimum of two-thirds of the Committee membership must concur. Such action may be taken at any regular meeting, by electronic mail, or by mail, in writing, provided that a notice of intent to do so shall have been given to each member at least 30 calendar days preceding the date for a final decision. The Chair(s) and the DFO will distribute the notice of intent to the Committee. The By-Laws should be consistent with the Committee Charter, in the event of a conflict, the Charter takes precedence.